



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

March 16, 1976

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J. Wm. Brammer, Jr. Esq.
DeConcini, McDonald, Brammer & Yetwin, P.C.
901 Lawyers Title Building
199 North Stone Avenue
Tucson, Arizona 85701

Dear Mr. Brammer:

We have reviewed your letter opinion dated September 19, 1975, addressed to William K. Poston, Jr., Superintendent, Flowing Wells Public Schools, relating to the validity of certain motor vehicle parking and traffic regulations adopted by the governing board of that school district.

We agree with you that A.R.S. §§ 15-441 and 15-442 authorize the governing board of a school district to adopt regulations relating to the use of motor vehicles upon that school district's property. However, we doubt that a school district can either (1) require persons, as a condition to their using motor vehicles upon the school district's property, to obtain and pay for permits or (2) can impose fines on persons violating school district motor vehicle regulations without a specific authorization from the Legislature. There being no such authorization, we doubt the validity of the parts of the regulations relating to the charge for permits and the monetary penalties for violations.

Should you have any questions concerning the foregoing, please let us know.

Sincerely,

BRUCE E. BABBITT
Attorney General

BEB:ASK:jpr



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PHOENIX, ARIZONA

September 19, 1975

R75-607

William K. Poston, Jr.
Superintendent
Flowing Wells Public Schools
1444 West Prince Road
Tucson, Arizona 85705

Dear Dr. Poston:

I am in receipt of your letter of September 10, 1975, together with the enclosures. This letter is in response, and a copy is being sent to the Attorney General pursuant to A.R.S. §15-122B for concurrence or revision.

The regulations which have been adopted all appear to be reasonable and within the authority of the board to regulate conduct on school property as granted by A.R.S. §15-441 and 442, and 13-1091 et seq.

However, I think that great care should be taken in the enforcement of these regulations, as any employee of the district acting in a capacity similar to that of a peace officer has extremely limited rights, and must be careful at all times not to violate the civil or criminal law himself while attempting to enforce these rules and regulations. Further, in the enforcement of these rules and regulations there should be no attempt made to "arrest" any person for violating these regulations or for failing to obey a citation issued pursuant to them. Such action could subject both the employee and the school district to civil liability to the individual "arrested". The only arrests which may be made by school district personnel, who are not peace officers, are as set forth in A.R.S. §13-1404 which states:

"A private" person may make an arrest:

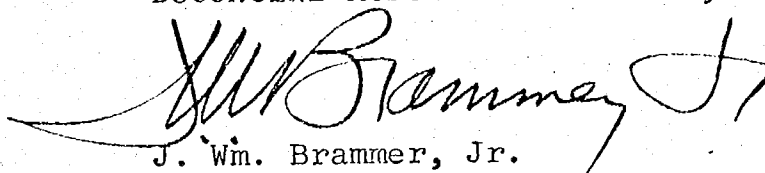
1. When the person to be arrested has in his presence committed a misdemeanor amounting to a breach of the peace, or a felony.
2. When a felony has been in fact committed and he has reasonable ground to believe that the person to be arrested has committed it."

William K. Poston, Jr.
September 19, 1975
Page Two

If you have any further questions concerning these rules or regulations, please let me know.

Very truly yours,

DeCONCINI McDONALD & BRAMMER, P.C.



J. Wm. Brammer, Jr.

JWB:jo

cc: Bruce E. Babbitt,
Attorney General
1700 W. Washington
Phoenix, Arizona 85007